



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648-BM28

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 32; Modifications to Non-Trawl Area Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council submitted Amendment 32 to the Pacific Coast Groundfish Fishery Management Plan to the Secretary of Commerce for review. If approved, Amendment 32 would: create a new type of Essential Fish Habitat Conservation Area that prohibits fishing with non-trawl bottom contact gear for all groundfish fisheries and the non-tribal directed commercial halibut fishery; remove the Cowcod Conservation Area seaward of California for commercial and recreational groundfish non-trawl fisheries; create and authorize the use of Groundfish Exclusion Areas as a new type of Groundfish Conservation Area; authorize the use of Block Area Closures for groundfish non-trawl fisheries, and make necessary administrative changes to relevant sections of the Pacific Coast Groundfish Fishery Management Plan. Altogether, these changes are anticipated to provide additional fishing

opportunity to groundfish non-trawl fishery sectors while continuing to protect rebuilding yelloweye rockfish and mitigating fishing impacts to sensitive areas.

DATES: Comments on Amendment 32 must be received on or before Sunday, October 1, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0051, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0051, in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and NMFS will post for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic Access

This notification of availability is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov/>. Information relevant to Amendment 32, which includes a draft Environmental Assessment, a regulatory impact review, a Regulatory Flexibility Act certification, and a Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) analysis, are accessible via

the internet at the NMFS West Coast Region website at:

<https://www.fisheries.noaa.gov/west-coast/laws-and-policies/west-coast-region-national-environmental-policy-act-documents>.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, phone, or e-mail: 562-900-2060, *Lynn.Massey@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) seaward of Washington, Oregon, and California under the Pacific Coast Groundfish fishery management plan (FMP). The Pacific Fishery Management Council (Council) prepared and NMFS implemented the Pacific Coast Groundfish FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notification announces that the proposed Amendment 32 to the FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove Amendment 32 to the FMP.

Background

In the early 2000s, several types of groundfish conservation areas (GCAs, defined at § 660.11) were enacted to protect overfished groundfish species off the U.S. West Coast, including the coastwide Non-Trawl Rockfish Conservation Area (Non-Trawl RCA, (68 FR 907, January 7, 2003)) and the Cowcod Conservation Areas (CCAs, (66 FR

2338, January 11, 2001)) in the Southern California Bight. With the rebuilt status of almost all of these groundfish species (the exception being yelloweye rockfish, which is projected to rebuild by 2029), the Council has been prioritizing increased fishing access to these areas for groundfish non-trawl fisheries (*i.e.*, the directed open access sector, the California recreational sector, the limited entry fixed gear sector, and vessels that use non-trawl gear under the Trawl Individual Fishing Quota Program). In November 2019, the Council directed the Groundfish Advisory Subpanel (GAP) to develop the scope of action and draft a purpose and need statement for non-trawl area management modifications during the GAP's March and April 2020 meetings. The GAP then submitted an informational report (see Informational Report 4 in the June 2020 briefing book at pcouncil.org) for Council consideration and scheduling of further scoping of the issues. In April 2021, the Council initiated a scoping process to address modifying Non-Trawl RCA catch restrictions and boundaries (see Agenda Item F.3, Attachment 2 in the April 2021 briefing book at pcouncil.org). In November 2021 and April 2022, the Council further refined the range of alternatives, which included expanding the action to include changes to the CCA (East and West) seaward of California, consideration of new closed areas (*i.e.*, Groundfish Exclusion Areas (GEAs) and Yelloweye Rockfish Conservation Areas (YRCAs)), and changes to Essential Fish Habitat Conservation Areas (EFHCAs) that exposed to fishing activity under the alternatives. The Council selected a preliminary preferred range of alternatives at their September 2022 meeting and a final range of alternatives at their March 2023 meeting. The resulting final action constitutes Amendment 32 to the Pacific Coast Groundfish FMP. Amendment 32 and its implementing regulations would provide additional fishing opportunity in these closures through a suite of modifications to GCA boundaries, gear specifications, and catch restrictions, while continuing to protect rebuilding yelloweye rockfish and mitigating

fishing impacts to sensitive areas. These regulatory changes will be presented in a forthcoming proposed rule.

In terms of specific changes to the Pacific Coast Groundfish FMP, Amendment 32 would: (1) create a new type of EFHCA that prohibits fishing with non-trawl bottom contact gear for all groundfish fisheries and the non-tribal directed commercial halibut fishery; (2) remove the CCA for commercial and recreational groundfish non-trawl fisheries; (3) create and authorize the use of GEAs as a new type of GCA; (4) authorize the use of Block Area Closures (BACs) for groundfish non-trawl fisheries, and (5) make necessary administrative changes to relevant sections of the Pacific Coast Groundfish FMP. Each of these changes is further described below.

New Type of Essential Fish Habitat Conservation Area

The Magnuson-Stevens Act requires that FMPs describe and identify essential fish habitat (EFH) and minimize to the extent practicable adverse effects on EFH caused by fishing. The Pacific Coast Groundfish FMP authorizes the use of EFHCAs (Amendment 19, 71 FR 27408, May 11, 2006; Amendment 28, 84 FR 63966, November 19, 2019) to protect groundfish EFH from specific types of fishing activity. Federal regulations at 50 CFR 660.75 through 660.79 provide the coordinates for all current EFHCAs off the U.S. West Coast. At present, there are two types of EFHCAs based on gear type: bottom trawl and bottom contact. Both bottom trawl and bottom contact EFHCAs apply to all fisheries utilizing that gear type and are not limited in application to groundfish fisheries. Amendment 32 would create a new type of EFHCA that prohibits using non-trawl bottom contact gear (*e.g.*, pot/longline) in the non-tribal groundfish fisheries and the non-tribal directed commercial halibut fishery. In the forthcoming proposed rule, NMFS is proposing moving the seaward boundary of the Non-Trawl RCA from 100 fathoms (fm, 183 meters (m)) to 75 fm (137 m) off the coast of Oregon. The

purpose of this new type of EFHCA is to protect groundfish EFH that would be newly exposed to non-trawl bottom contact gear as a result of this change. Specifically, five new EFHCAs would be established: (1) Nehalem Bank East; (2) Bandon High Spot East; (3) Arago Reef West; (4) Garibaldi Reef North; and (5) Garibaldi Reef South. All of these new EFHCAs overlap partially or entirely with existing bottom trawl EFHCAs, which is why the specified gear prohibition only includes non-trawl bottom contact gear (*i.e.*, bottom trawl gear is already prohibited in these areas).

Removing the Cowcod Conservation Area for Groundfish Non-Trawl Fisheries

The CCA was enacted in 2001 to protect overfished cowcod (Amendment 16-3, 66 FR 2338, January 11, 2001), which was declared rebuilt in 2019. The CCA is comprised of the Western and Eastern CCAs and applies to all commercial and recreational groundfish fisheries, including those that use both trawl and non-trawl gear. Amendment 32 would remove the CCA for all groundfish non-trawl fisheries; the CCA would remain in place for groundfish trawl fisheries. The purpose of this change is to provide fishing opportunity in this area given that cowcod has been declared rebuilt.

Groundfish Exclusion Areas

Amendment 32 would create a new type of GCA called GEAs, which are intended to mitigate the impacts to sensitive environments from certain groundfish fishing activity. Specifically, eight GEAs would be established: (1) Hidden Reef; (2) West of Santa Barbara Island; (3) Potato Bank; (4) 107/118 Bank; (5) Cherry Bank; (6) Seamount 109; (7) Northeast Bank; and (8) The 43-Fathom Spot. All of these GEAs would be located in the Southern California Bight within the area that non-trawl CCA restrictions would be removed. The purpose of this change is to create a GCA that can be used to protect sensitive environments that are separate and distinct from groundfish EFH.

Block Area Closures for Groundfish Non-Trawl Fisheries

The Pacific Coast Groundfish FMP currently authorizes the use of BACs to control bycatch of groundfish in trawl fisheries. Amendment 28 to the FMP (84 FR 63966, November 19, 2019) first established BACs as a management tool. The salmon bycatch minimization measures action (86 FR 10857, February 23, 2021) expanded BACs as a tool to minimize salmon bycatch. Amendment 32 would expand the use of BACs to be enacted for groundfish non-trawl fisheries. The purpose of this change is to create a mechanism to control bycatch of groundfish, as well as protected or prohibited species from non-trawl fisheries given the new flexibilities that would result from the approval of Amendment 32 and its proposed regulations.

Administrative Changes

The Council and NMFS are proposing additional changes to the relevant sections of the Pacific Coast Groundfish FMP being modified by Amendment 32. These changes include revising the terms “Bottom Contact Closed Areas” and “Bottom Trawl Closed Areas” to “Bottom Trawl Essential Fish Habitat Conservation Areas” and “Bottom Contact Essential Fish Habitat Conservation Areas.” Revising this terminology throughout the FMP will make these terms consistent with how they appear in Federal Regulations, maps, and Council records. These changes would also include adding a placeholder in Section 1.1 for a description of Amendment 31 to the Pacific Coast Groundfish FMP, as it is likely that Amendment 32 would be approved before Amendment 31.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. A proposed rule to implement Amendment 32 has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 32 in the near future.

For public comments on the proposed rule to be considered in the approval or disapproval decision on Amendment 32, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: July 24, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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